

State Board of Equalization
OPERATIONS MEMO
For Public Release

No. : 1168
Date : May 4, 2009

SUBJECT: 1 Percent State Sales and Use Tax Rate Increase

I. GENERAL

Revenue and Taxation Code (RTC) sections 6051.7 and 6201.7 temporarily increase the state sales and use tax rate by 1 percent. Accordingly, the general fund portion of the state sales and use tax increases to 6 percent from 5 percent, and the new minimum statewide sales and use tax rate is 8.25 percent. The tax increase is effective April 1, 2009 through June 30, 2011. However, it may be extended through June 30, 2012 if the voters approve the proposed Budget Stabilization constitutional amendment in a statewide election to be held on May 19, 2009.

II. ADD-ON CODE

Add-on code 902 - **BSFD** (*Budget Stabilization Fund*) will be used for the additional 1 percent sales and use tax imposed by RTC sections 6051.7 and 6201.7.

III. NOTICE TO TAXPAYERS

A [Special Notice](#) regarding the 1 percent state sales and use tax rate increase was mailed to all sales and use tax permit holders, district offices, and Headquarter sections. A copy of the notice is available on the Board of Equalization's (BOE) website.

Pamphlet 71, [California City and County Sales and Use Tax Rates](#), has been revised and is available both in hard copy and on the BOE's website. Tax rate charts are also available on the BOE's website.

Changes to the mass return addressing and online return printing functions have been made to ensure proper distribution of taxpayer returns and related schedules.

IV. REVISIONS TO SALES AND USE TAX RETURN FORMS

Since the state tax increase is effective at the beginning of a quarterly reporting period, the changes will have minimal impact on monthly and quarterly filers. Yearly, fiscal yearly, and special reporting basis filers will be required to file a return with split periods.

The BOE-401-ASR, *State, Local, and District Sales and Use Tax Split Rate Return* has been developed to handle split periods for the BOE-401-A and the BOE-401-GS returns.

The BOE-401-EZSR, *Short Form – Sales and Use Tax Split Rate Easy Return*, will also be available to taxpayers that are eligible to file the *BOE-401-EZ, Short Form – Sales and Use Tax*.

Additionally, the BOE-401-ESR, *State, Local, and District Consumer Use Tax Split Rate Return* was designed for Consumer Use Tax filers with a split rate return.

The BOE-401-A, State, Local, and District Sales and Use Tax Return and the BOE-401-GS, State, Local, and District Sales and Use Tax Return, have been revised to reflect the new state rate. In addition, Sections A, B, and C have been modified to claim tax recoveries and partial state tax exemptions at the old rate and the new rate.

The BOE-401-E, *State, Local, and District Consumer Use Tax Return* has been revised to reflect the new state tax rate on the front page and the partial state tax exemptions were adjusted on the back page.

The BOE-501-UI, *Cigarette and Tobacco Products Use Tax Return* (used exclusively by the Excise Taxes Division) has been revised to reflect the new state tax rate on the front and back page. This form is sent out to registered taxpayers and is available on the BOE website for voluntary reporting.

V. REVISIONS TO OTHER SALES AND USE TAX FORMS AND PUBLICATIONS

Compliance and audit forms and other affected publications are being revised. When completed, the revised documents will be posted to the internet and/or distributed to users upon receipt of new stock.

VI. E-FILING

The revised returns will be accessible for E-filing on May 11, 2009. Taxpayers with sales and use tax returns due with a reporting period that includes April 2009 will be unable to e-file their returns until May 11, 2009.

VII. EXEMPTIONS

RTC sections 6356.5, 6356.6, 6357.1, 6358.5, 6378, and 6378.1 provide partial exemptions of 5.25 percent from the state sales taxes imposed by section 6051 and state use taxes imposed by section 6201 through March 31, 2009. As of April 1, 2009, the partial exemptions increase to 6.25 percent.

Fixed-price contracts or fixed-price taxable lease agreements other than mobile transportation equipment (MTE) are not exempt from the 1 percent tax rate increase. Consequently, the 1 percent tax rate increase will apply to such contracts and leases other than MTE.

For leases of equipment that qualify as MTE under Regulation 1661, where a timely election is made to report tax on the fair rental value and the MTE is first leased on or before March 31, 2009, the applicable tax rate is the rate in effect at the time the MTE is first leased. The one percent state tax increase will not apply and the tax rate will remain the same for all periods during which the equipment is leased, including the periods during the first lease of the equipment and all periods during any subsequent leases of the equipment by the original purchaser.

Sales and Use Tax Regulations 1525.7, 1532, 1533.1, 1533.2, 1534, and 1535 are being revised and will be published at a later date.

VIII. CHANGES TO AUDIT WORKPAPERS

A. Transcript of Returns Filed – Sales and Use Tax (BOE-414)

The column labeled “*S, C, STTI Tax Due*” will be changed to read “*S, C, STTIA Tax Due*” and will include the BSFD tax reported.

Transcripts that include returns filed on a yearly, fiscal yearly, or special reporting basis *will not* separately state the reported taxable measure for BSFD during the split period. Instead, the following footnote will be added:

THIS CASE HAS MULTIPLE STATE TAX RATES DUE TO THE 1% STATE INCREASE EFFECTIVE 4/1/09. SEE TAXPAYER'S RETURN FOR BREAKDOWN.

Split period information may be obtained by reviewing the taxpayer’s returns or by accessing the returns through the E-file system if they were filed electronically. Please refer to the “[New E-file Functionality - Filing History](#)” policy memo for instructions on accessing e-filed returns.

B. Report of Field Audit (BOE-414-A) and Field Billing Order (BOE-414-B)

Page one of the report will have a separate column under *Taxable Measure Disclosed by Examination of Taxpayer’s Records* labeled *1% State Increase*.

Sales Tax Calculation Summary Page – The new tax will be identified as *1% State Increase* under *Jurisdiction* and as *BSFD* in the *Breakdown of Jurisdictions* section.

C. Start 21

Use jurisdiction code 902 - *BSFD* to upload measure subject to the 1 percent tax increase.

IX. IRIS

Returns filed on a yearly, fiscal yearly, or special reporting basis will only show the reported taxable measure for the full year on all IRIS screens. Staff will need to obtain correct BSFD reported taxable measure from the taxpayer using copies of the taxpayer’s return forms, if filed by paper return, or the E-file system if the applicable returns were electronically filed.

X. OBSOLESCENCE

This Operations Memo will become obsolete when the information contained herein is incorporated into the Business Taxes Law Guide, the Business Taxes Code Book, the Audit Manual, and the Compliance Policy and Procedures Manual.

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Distribution: 1-D